

Message Text

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PAGE 01 SANTIA 02707 172239Z

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FM AMEMBASSY SANTIAGO

TO SECSTATE WASHDC 8625

C O N F I D E N T I A L SANTIAGO 2707

EXDIS

EO 11652: GDS

TAGS: CI, EIND, US

SUBJECT: COPPER NEGOTIATIONS

REF: SANTIAGO 2604

1. SUMMARY: ANACONDA ATTORNEY, WHO WILL ACCOMPANY JULIO PHILIPPI TO WASHINGTON, DESCRIBES WCDE GAP REMAINING BETWEEN GOC AND ANACONDA APPROACHES TO COMPENSATION NEGOTIATIONS, BUT BELIEVES PHILIPPI MAY SHOW SOME FLEXIBILITY. END SUMMARY.

2. MANUEL VARGAS, SANTIAGO ATTORNEY FOR ANACONDA, FILLED ME IN MAY 17 RE STATE OF PLAY IN ANACONDA COPPER NEGOTIATIONS PRIOR TO HIS TRIP TO WASHINGTON TO BE PRESENT AT DISCUSSIONS WITH JULIO PHILIPPI, GOC COPPER NEGOTIATOR, NEXT WEEK.

3. IN GENERAL VARGAS CONFIRMED SITUATION AS DESCRIBED BY PHILIPPI REFTEL. VARGAS NOTED THAT THE ANACONDA POSITION WAS BASED ON GOC PAYMENTS FOR THE 51 PERCENT ANACONDA INTEREST, REPROGRAMMED TO TAKE INTO ACCOUNT DELAY IN SETTLEMENT, PLUS INDEMNIFICATION FOR THE 49 PERCENT ANACONDA INTEREST INCLUDING PROFITS FOR PERIOD JANUARY 1 TO JULY 17, 1971, DAY ON WHICH FULL NATIONALIZATION BECAME EFFECTIVE.

4. ACCORDING TO VARGAS, PHILIPPI AGREES TO REPROGRAMMED PAYMENTS WITH RESPECT TO THE 51 PERCENT, BUT STATES THAT AFTER DEDUCTION OF TAXES COMPANY OWES GOC AND EXCESS PROFITS PAYMENTS DUE UNDER CHILEAN CONSTITUTIONAL AMENDMENT, NOTHING
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PAGE 02 SANTIA 02707 172239Z

REMAINS TOWARD COMPENSATION FOR THE 49 PERCENT INTEREST.
PHILIPPI'S PROPOSAL IS THAT, TAKING BOTH 51 AND 49 ELEMENTS

TOGETHER, THERE SHOULD BE A GENERAL SET-OFF WHICH WOULD REPRESENT THE FIGURE TO BE PAID TO ANACONDA.

5. ANACONDA FINDS THIS POSITION NOT SATISFACTORY AND ARGUES COMPENSATION SHOULD BE CALCULATED ON BASIS ACCEPTABLE UNDER INTERNATIONAL LAW, RATHER THAN ON BASIS OF CHILEAN LEGISLATION IN CONFLICT WITH IT, INCLUDING COPPER AMENDMENT. ANACONDA DOES NOT ACCEPT PHILIPPI'S ARGUMENT THAT UNGA RESOLUTION 3171 CAN BE CITED TO JUSTIFY GOC POSITION. THEY ALSO CHALLENGE TAX CALCULATIONS BASED ON ALLENDE REGIME "REASSESSMENTS" WHICH COMPANIES THEN UNDER MIXED OWNERSHIP WERE NOT ABLE TO CONTEST.

6. BEARING OUT OUR ANALYSIS REFTTEL, VARGAS SAYS THAT THOUGH PHILIPPI HAS SHOWN NO FLEXIBILITY IN HIS DISCUSSIONS HERE, HE GIVES IMPRESSION HE IS STILL STUDYING PROBLEM AND IS WILLING TO CONSIDER ITS RAMIFICATIONS. FOR THIS REASON ANACONDA IS NOT EXCLUDING POSSIBILITY OF SOME ADVANCE IN SITUATION AS RESULT UPCOMING TALKS, PARTICULARLY SINCE VARGAS BELIEVES PHILIPPI HAS DISCUSSED MATTER WITH JUNTA.

7. VARGAS ADDED THAT PHILIPPI HAD STATED HE FOUND EXOTICA NEGOTIATIONS WITH OPIC VERY DIFFICULT. I NOTED THIS MIGHT HELP INDUCE PHILIPPI TO SETTLE WITH COMPANIES, RATHER THAN TURN TO US GOVERNMENT.
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